

Original signed by Robyn Pearson on 12/3/2020

Date determined 4/3/2020

Date operates DEFERRED

Date lapses 12/3/2021

Stuart and Sylvia Terry
C/- Colin Filmer, Filmer Architects
45 Willoughby Street
KIRRIBILLI NSW 2061

D398/19
LK(CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Deferred Commencement**

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”).
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)*

Development Application Number: 398/19

Land to which this applies: 45 Willoughby Street, Kirribilli
Lot No.: 1, DP: 115096

Applicant: Stuart and Sylvia Terry
C/- Colin Filmer, Filmer Architects

Proposal: Additions and alterations to dwelling including a two-storey rear extension, roof terrace and excavation to create additional accommodation below the dwelling.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 4 March 2020. Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, deferred commencement has been granted, subject to conditions in the notice of determination.

Date of Determination: 4 March 2020

Reason for Deferred Commencement: The Panel had the benefit of a site inspection and the submissions received both oral and written. The Panel generally agreed with the environmental assessment of the proposal as outlined in the Council Officer’s report.

The Panel had regard to the applicant's Clause 4.6 written request to contravene the maximum Building Height development standard within Clause 4.3 of North Sydney Local Environmental Plan 2013 and formed the view that the applicant's written request satisfactorily addressed the required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard notwithstanding the non-compliance, and granting consent was in the public interest.

The Panel notes the proposed height does not detract from the heritage significance of the building, did not significantly vary the approved and commenced Development Application and did not cause any significant amenity impacts on neighbours.

The restored verandah represents a positive heritage outcome and a public benefit.

The Panel had concerns regarding the heritage impacts and potential structural impacts upon the dwelling and front boundary wall arising from the proposed excavation for various stairs in the front setback area. Additional terms were included in the Deferred Commencement consent to address this. The Panel also noted the non-complying landscaped area and lack of deep soil planting. Additional terms were also included in the Deferred Commencement consent to address this.

Deferred Commencement Time Frame:

12 months

Date of Lapsing:

12 March 2021

How community views were taken into account:

The application was notified to adjoining properties and Harrison Precinct between 30 August and 13 September 2019. Four (4) submissions against the application were received. The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2020/4_March_2020)

Review of determination and right of appeal:

Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER(ASSESSMENTS)

(i) Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.17 of the Act.

(ii) Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

NCC means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Council.

Court means the Land and Environment Court.

Local Native Plants means species of native plant endemic to North Sydney LGA.

Stormwater Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act* 1989.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

Principal Contractor for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

Professional Engineer has the same meaning as in the *NCC*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

NSDCP 2013 means *North Sydney Development Control Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

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AA. *Deferred Commencement Conditions*

This consent shall not operate until the following deferred commencement condition(s) have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent. This consent will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Design Modifications and Further Information - Heritage

AA1. The following modifications and clarification are required:-

1. The proposal is to be amended to delete the staircases from the cellar to the front setback and to provide replacement soft landscape in this area. These stairs may be replaced by a small lightwell (maximum 1 metre x 600mm) to allow some light and ventilation into the proposed cellar.
2. The existing balustrades are to be modified to achieve BCA compliance rather than replaced to retain significant original fabric.
3. The existing 'L' shaped front ground floor verandah shall retain the existing sandstone base (extended for the squared-off verandah corner), and the proposed stair along the northern front boundary shall be deleted. Access to the front door shall be provided but relocated via the western verandah, in the area of new works to the west of the dwelling, from the basement to the ground floor level. This may also include some revision to the basement floor levels and planter box depth (while retaining sufficient soil volume for the proposed tree, which may also include a planter box partly above ground, but no higher than 600mm above finished ground level) without otherwise changing the proposed surrounding ground floor finished levels.
4. First Floor Plan DA 1.1.4 Revision C is to be amended to delete '*Note: New ceilings and ceiling framing to Level 4 as approved under DA307/13.*' The note does not point to any specific part of the plans and should be removed.
5. The requirements of Condition C13 (Geotechnical Report).
6. An amended landscape plan is required to include:

- An increased amount of soft landscaping;
- Replacement of the proposed *Lagerstroemia* tree in NE corner by a tree selected from Council's Port Jackson plant species list, to reach a mature height of at least 6 metres, with a minimum pot size of 75L; and
- An additional canopy tree in the western courtyard.

The applicant must submit revised architectural plans and details complying with the requirements of this condition for the written approval of Team Leader Assessments after consultation with Council's Heritage Planner.

(Reasons: To retain original fabric to reduce structural impact to significant elements, and to retain the significance of the building including original front entrance way and balcony, while improving landscaping and rationalising access).

Works Method and Design Report

AA2. A work methods and design report must be submitted detailing the extent of works affecting the existing rock outcrop and retaining along the Willoughby Street site frontage. The report shall include, but is not limited to the following:

- (a) Measures/work methods and details to ensure that the proposed excavation within the site will be undertaken in a manner that will involve no removal of the existing natural rock outcrop along the Willoughby Street frontage and removal of the retaining wall along with frontage only where necessary for structural safety reasons;
- (b) Necessary protective measures for the natural rock outcrop and remaining retaining walls during demolition, excavation and construction stages of the development including contingency plans to underpin, support and permanent stabilise the rock and wall if its structural integrity is found to be compromised by the proposed works, and;
- (c) Detailed design of the widened opening and new timber gate to access the new studio level including details of materials colours and finishes and the re-use of the excavated sandstone.

The report must be prepared by a suitably qualified person with input from a suitably qualified Geotechnical Engineer. All new sandstone must comprise whole sandstone blocks. Sandstone facing or tiles will not be acceptable.

The applicant must submit the report complying with the requirements of this condition for the written approval of Council's Team Leader Assessments in consultation with Council's Development Engineer and Landscape Officer.

(Reasons: To ensure the protection of existing natural rock features.)

This consent shall not operate until such time as the written approval stating that the requirements of these conditions have been satisfied.

Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached standard conditions:-

A. *Conditions that Identify Approved Plans*

Development in Accordance with Plans/documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Drawing number	Revision	Title	Drawn by	Dated
DA 1.1.1	D	Proposed Site + Roof	Filmer Architects	03/01/2020
DA 1.1.2	C	Proposed Lower Ground Floor	Filmer Architects	03/01/2020
DA 1.1.3	D	Proposed Ground Floor	Filmer Architects	03/01/2020
DA 1.1.4	C	Proposed First Floor	Filmer Architects	03/01/2020
DA 1.1.5	C	Proposed Terrace Floor	Filmer Architects	03/01/2020
DA 2.1.1	E	North-West Elevation	Filmer Architects	20/01/2020
DA 2.1.2	D	South-East Elevation	Filmer Architects	20/01/2020
DA 2.1.3	B	North-East Elevation	Filmer Architects	29/11/2019
DA 2.1.4	E	South-West Elevation	Filmer Architects	20/01/2020
DA 2.2.1	C	Section A - A	Filmer Architects	29/11/2019
DA 2.2.2	E	Section B - B	Filmer Architects	20/01/2020
DA 4.1.2	B	Landscape Plan Lower Ground Floor	Filmer Architects	29/11/2019
DA 4.1.3	C	Landscape Plan Lower Ground Floor	Filmer Architects	09/12/2019
DA 4.1.4	B	Landscape Plan Lower Ground Floor	Filmer Architects	29/11/2019
DA 6.1.1	B	Material Sample Board	Filmer Architects	29/11/2019

Note: These plans are subject to change as a consequence of detail submitted for deferred commencement conditions AA1 and AA2 above

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes & Materials

A4. External finishes and materials must be in accordance with those specified within the approved drawings listed within Condition A1 of this consent, unless as otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Excavation Strictly Limited to That Shown on Plans

A5. Excavation works shall be strictly limited to that shown on the approved plans. Under no circumstances shall there be any excavation below RL 12.60 (in the area of the lift) or RL 13.40 (in the area of the studio), unless with express written permission from Council.

(Reason: To ensure compliance with the approved development)

Surrender of Previous Development Consents

A6. The applicant is required to surrender, in writing, previous Development Consents (DA 1/13 and DA 307/13) within 30 days from the date of this consent to ensure clarity and certainty regarding the development approved by this consent.

(Reason: To ensure clarity and certainty on development within the subject site)

B. Matters to be Completed before the lodgement of an Application for a Construction Certificate

Construction and Traffic Management Plan

B1. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. RMS signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;

- vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following: -
- i. Traffic control measures proposed in the road reserve that are in accordance with the RMS publication “Traffic Control Worksite Manual” and designed by a person licensed to do so (minimum RMS ‘red card’ qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all time.
- A copy of this route is to be made available to all contractors, and must be clearly depicted at a location within the site.
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process;
- e) Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road;
- f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and
- g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel’s vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced Traffic Engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council’s Traffic Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site. To obtain the permit, an application must be made to Council on a 'Application to satisfy development consent' form with payment of the adopted assessment.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated).*

Deed of Agreement with Council - Encroachments

- C1. Prior to the issue of any Construction Certificate, the applicant must enter into a Deed of Agreement with Council in accordance with Council's adopted Encroachment Management Policy to enable the encroachments within this development to be formalised.
- a) A draft Deed of Agreement will be issued to the applicant once the Development Conditions are approved and the applicant must agree in writing to entering into the Deed of Agreement with Council prior to the issue of a Construction Certificate.
 - b) A current Plan of Survey prepared by a Registered Surveyor must be submitted with the 'Total Area of the Encroachment' identified and noted in the Plan in square metres. The Plan must be accompanied by a letter from the Surveyor confirming the area in square metres.
 - c) The Date of the Deed of Agreement between Council and the applicant will be the Date of Practical Completion. The Certificate of Practical Completion is to be presented to Council immediately on receipt.
 - d) The lessee will be responsible for all maintenance and insurance of the encroaching structures.

- e) Written consent will be issued to the Private Certifying Authority (PCA) for an Occupation Certificate to be issued on receipt of a valid Insurance Certificate and the executed Deed of Agreement owner.
- f) The encroachment will be notated on a Section 10.7 Certificate.

If the applicant does not concur with the conditions of the Agreement, the applicant may need to lodge a Section 4.55 Application to modify this condition.

Additional Requirements of this condition:

(a) Insurance

" In the event that part of the proposed development encroaches upon or over Council land, the land owner must defend and hold harmless, indemnify and keep indemnified, Council and its employees, officers, agents and contractors from and against all claims, expenses, losses including consequential losses, damages and costs (including costs on a solicitor and client basis and whether incurred by or awarded against Council) that Council may sustain or incur as a result, whether directly or indirectly, of the encroachment by the proposed development on Council land, including:

- (a) any injury or death to any person including any injury or death to the general public, employees, officers, agents and contractors, or invitees, or other entity of the Council; or*
- (b) damage to or loss of any property; and*
- (c) arising out of performance by the landowner of its obligations under the Conditions of Consent including claims by a person who is not a party to this development, except to the extent caused or contributed to by Council, its contractors, employees and agents.*

Without limiting the generality of this condition, the land owner must ensure that:

- (a) the processes and methods to be used for carrying out the development will be completely suitable for the purposes for which they are required;*
- (b) the development is carried out in accordance with the Conditions of Consent;*
- (c) it will obtain for the benefit of Council all available product and work warranties from any suppliers, contractors and subcontractors in respect of equipment and materials used in the development that encroaches on Council land, and assign such benefit to Council where the warranty is not in favour of Council.*

The land owner must provide Council with a copy of its Certificate of Insurance on an annual basis so that Council can satisfy itself that the land owner holds adequate public liability insurance in relation to the development that encroaches on Council land.

The encroaching owner is required to maintain public liability insurance of \$20 million, noting Council's interest on the Certificate of Currency."

(b) Maintenance Responsibility

The Encroaching owner is responsible for the maintenance, repair and upkeep of the Encroaching Structures.

Owners Consent from Council is required to undertake any additional works, other than the general maintenance and upkeep of the encroaching structures.

(c) Costs

All associated costs in relation to the encroachment will be borne by the property owners of 45 Willoughby Street, Kirribilli. All other terms and Conditions are to be in accordance with the Encroachment Management Policy.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure encroachments are formalised and to ensure public safety).

Heritage Requirements

- C2.
1. Timber floorboards are to be replaced with matching timber floorboards only. No approval is granted for the removal of boards and/or joists and replacement with a concrete slab.
 2. The new metal roof to the rear addition on the North West Elevation is to have a traditional corrugated roof profile equal to Custom Orb. No approval is given for min-orb or tray profile roof sheeting.
 3. Details are to be provided from the consultant heritage architect for the retention, salvage, modification and re-use of original balustrades to comply with the National Construction Code. New balustrades are to be limited to the new addition and shall be sympathetic to the original balustrades.
 4. Details are to be provided from the consultant heritage architect for the proposed new retaining wall along the north-western boundary. The materials shall be selected to be sympathetic to the character of the Victorian dwelling and may include sandstone blockwork, sandstone cladding or a rendered and painted finish.

Architectural Plans complying with the above requirements must be submitted for the written approval of Council's Team Leader Assessments prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure retention of heritage fabric and the use of materials consistent with the character of the Conservation Area)

Stormwater Management and Disposal Design Plan – Construction Issue Detail

- C3. Prior to issue of any Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Council’s Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
 - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity (as overflow from Rainwater Tank) via a direct connection to Council’s street stormwater 2.4m kerb inlet pit which is to be constructed in front of the property. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm.
 - c) The stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.
 - d) All redundant stormwater pipelines within the street sandstone retaining wall shall be removed and wall reinstated.
 - e) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, directly to Council’s nearest stormwater drainage line. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising Civil Engineer, shall be submitted with the application for a Construction Certificate.
 - f) The design and installation of the Rainwater Tanks shall comply with Basix and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
 - g) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.
 - h) Provide subsoil drainage to all necessary areas with pump out facilities as required.
 - i) The foundations for building structures and walls adjacent to the drainage easement are to be constructed in such a manner that does not affect stormwater drainage lines.

Details demonstrating compliance are to be submitted with all other drainage details to Council prior to issue of any Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance).

Council Embankment and Retaining Wall

- C4. The applicant must provide structural certification to Council prior to issue of any Construction Certificate that the proposed works to the sandstone rock face and wall will not undermine the embankment and stability of the rest of wall. If the proposed cut-in does impact upon the structural viability of the wall and embankment, the applicant must undertake all necessary works (design and construction) to ensure the wall is structurally sound.

The applicant must engage a Structural and Geotechnical Engineer to design the wall in accordance with current Australian standards and submit documentation to Council prior to issue of any Construction Certificate. The design shall be in line with the documentation submitted and approved for **Condition AA2** of this consent. All costs associated with any design and construction work must be borne by the applicant.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the protection of existing public infrastructure)

Compliance with Work Methods and Design Report

- C5. The recommendations, implementation program, monitoring program, contingency plans, mitigation measures, design details and the like contained in the Work Methods and Design Report for the natural rock features along the Willoughby Street (north-eastern) property boundary as required by **Condition AA2** of this consent must be implemented in full during the relevant stages of demolition, excavation and construction.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the protection of existing natural rock features.)

Frosted Glazing for Window W3

- C6. The first floor (FFL 21.50) southeast facing bathroom (W3) window shall be frosted/obscure glazed and this shall be permanently retained.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To minimise loss of privacy to the south-eastern neighbours rear deck).

Dilapidation Report Damage to Public Infrastructure

- C7. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C8. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C9. A photographic survey and dilapidation report of adjoining properties No's. 43 Willoughby Street, 47 Willoughby Street, 137-143 Carabella Street (adjoining rear garden areas only including any structures in this garden area) detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Shoring for Adjoining Property

- C10. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of excavation, encroachment and the method of removal and de-stressing of shoring elements, backfilling and compacting of over-excavated cavities on Council's and/or private property with fill suitable for its purpose, must be submitted to the Certifying Authority for approval with the Construction Certificate.

A copy of this documentation must be provided to the Council for record purposes. Backfilling and compacting of over-excavated cavities must be addressed as the build-up is progressing through the basements to ensure that compaction is reliable.

To obtain the permit for tieback anchors, an 'Application to satisfy development consent' form with payment of the adopted assessment fees, must be made to Council.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/ legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties – Excavation Works

C11. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties No's. 43 Willoughby Street, 47 Willoughby Street, 137-143 Carabella Street (adjoining rear garden areas only including any structures in this area), which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy of Existing Building

C12. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Geotechnical Report

C13. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:-

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;

- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;
- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and

- f) An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The Geotechnical Report must be prepared in accordance with the recommendations within the Geotechnical Report from WITT Consulting was provided with the application dated September 2019, and in particular the use of rock saws and vibration limits, except for the recommended removal of the whole retaining wall fronting Willoughby Street, which shall not be permitted.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process).

Sediment Control

- C14. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils & Construction* (4th edition, Landcom, 2004) commonly referred to as the “Blue Book” or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

C15. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Colours, Finishes and Materials (Heritage Items)

C16. A traditional palette of finishes, materials and colour schemes must be selected for the new building works appropriate to the architectural style of the original building and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that exterior colours, finishes and materials are sympathetic to the significance of the heritage item.)

Sandstone Re-pointing

C17. Any repointing works to the sandstone block wall / retaining wall facing Willoughby Street must be undertaken using traditional lime mortar by a qualified stonemason. Written details of the engagement of a qualified stonemason must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

The Certifying Authority must also ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Skylight(s)

- C18. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Roofing Materials - Reflectivity

- C19. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

Work Zone

- C20. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

C21. The property boundary alignment levels must match the levels which existed prior to the commencement of works. Any filled areas and excavated areas alongside northwest, southwest and southeast property boundaries must be retained with retaining structures which are located wholly within the subject site.

Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure interface between property, neighbours, and public land remains uniform, and to ensure areas of fill are contained within the site).

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C22. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$28,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;

- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Approval for removal of Trees

C23. The following tree(s) are approved for removal in accordance with the development consent:

SCHEDULE

Trees that are acceptable to remove	Location	Height
<i>Murraya paniculata</i>	North-western lawn area of the subject site	(10mx10m)

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Asbestos Material Survey

C24. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

Security Deposit/ Guarantee Schedule

C25. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Engineering Construction Bond	\$25,000.00
Drainage Construction Bond	\$3,000.00
TOTAL BONDS	\$28,000.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C26. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. (A359270 dated 25 September 2019) for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government’s requirements for sustainability and statutory requirements)

Amendments to the Landscape Plan

C27. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- The proposed “Fig Tree” (no species or size shown) to be planted in the 1.5m x 1.5m x 1m steel pot set into lawn, shall be substituted for an *Ulmus parvifolia* (200l), and the pot shall be open at the base allowing the roots to extend into the wider planter bed beyond the pot.
- An additional replacement planting of 1 x *Cupaniopsis anacardiodes* (100l) shall be planted in the deep soil in the western corner of the site.

- The *Phoenix dactylifera* shown to be planted on the northern corner of the subject site but not shown on the plant schedule, shall be shown on the plant schedule, and shall be minimum 75l pot size.
- The *Magnolia x soulangiana* (100l) shown on the plant schedule, but not depicted on the drawings, shall be shown in its proposed planting site.
- All garden areas shall have fully automatic drip irrigation installed.

An amended landscape plan complying in full with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To provide improved tree cover in the interests of the environment and visual amenity)

D. Prior to the Commencement of any Works (and continuing where indicated)

Public Liability Insurance – Works on Public Land

- D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Sydney Water Approvals

- D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes:

- *Sydney Water Building Plan Approvals can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.*

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works Notice

- D3. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work

Unexpected Contamination – Remedial Action Plan

- E1. If any land contamination is discovered during the course of the development works, all works shall cease until such time as a Remedial Action Plan has been drawn up by a suitably qualified person/environmental consultant detailing the process for retention, excavation, storage & handling, classification, disposal or re-use of disturbed soils on the site. The following process shall then be followed:-

1. Soil to be excavated/disturbed shall be tested for contamination. Any soils found to contain contaminants of concern must be classified for disposal purposes, appropriately stored, and properly disposed of to a facility licensed to receive that category of waste.
2. Waste facility receipts must be retained on site for inspection by Council/PCA upon request.
3. If fill is to remain on site, this soil will need to be tested to confirm its suitability (or otherwise) for re-use on site. Any soils found to contain contaminants of concern must be classified for disposal purposes, appropriately stored, and properly disposed of to a facility licensed to receive that category of waste.
4. Should dewatering of the site be intended, the ground water will require to be tested prior to assess the most suitable disposal option.

The site will then be required to be adequately remediated and validated as being fit for its intended use by a suitably experienced environmental consultant.

A notice of completion, including validation is to be provided to Council following the removal of any contaminated soils.

(Reason: To ensure the land is suitable for its intended purpose).

Service Adjustments

- E2. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met).

Cigarette Butt Receptacle

- E3. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

Re-use of Sandstone

- E4. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site)

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Parking Restrictions

- E5. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E6. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) “Traffic Control Devices for Work on Roads”. **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

E7. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Geotechnical Stability during Works

E8. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydro geological considerations must be undertaken in accordance with the recommendations of the Geotechnical engineer and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

E9. During the works on public infrastructure reverting to Councils care and control, Councils development engineer must undertake inspections of the works at the following hold points: -

a) Stormwater works and connection.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system).

Progress Survey

E10. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows: -

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
- b) at the completed height of the building, prior to the placement of concrete form work, or the laying of roofing materials; and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

E11. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

E12. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.

- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E13. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

No Work on Public Open Space

- E14. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Developer's Cost of Work on Council Property

- E15. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E16. No trees on public property adjacent to the site (footpaths, roads, reserves, etc.) shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Trees to be Removed

- E17. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal: -

Trees that are acceptable to remove	Location	Height
<i>Murraya paniculata</i>	north-western lawn area of the subject site	(10mx10m)

(Reason: To ensure compliance with the terms of this development consent)

Special Permits

E18. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours notice is required for any permit: -

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Noxious Plants

E19. All lantana, privet, rubber trees, asthma weed, and other declared noxious plants on the site, must be eradicated before the commencement of landscape works.

(Reason: To ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality landscaping outcome)

Construction Hours

E20. Building construction and works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only.

Activities generating noise levels greater than 75dB(A) such as rock breaking and demolition must be limited to:

8 – 12pm Monday – Friday and
2 – 5 pm Monday – Friday

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

- c) “Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.
- d) “Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E21. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Remedial Action Plan (Contaminated Land)

- E22. Any remediation work required by Condition E1 of this consent must be carried out in strict accordance with the Remedial Action Plan approved under this consent and all relevant guidelines issued under the Contaminated Land Management Act.

(Reason: To ensure the proper management of contaminated land)

Site Amenities and Facilities

- E23. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E24. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

- E25. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant & Equipment Kept Within Site

- E26. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Imported Fill Material

- E27. The only waste derived fill material that may be received at the development site is: -
- a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act, 1997*); and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site, must be accompanied by documentation as the material's compliance with the exemption conditions and must be provided to the Certifying Authority on request.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

Waste Disposal

E28. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E29. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act* 1989 requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

- (b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Excavation/Demolition

- F6. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Site Sign

- F7.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
 - 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

Certification- Civil Works

- G2. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Utility Services

- G3. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following: -

- a) the building/ land is free of asbestos; or
- b) the building/ land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G5. Prior to the issue of an Occupation Certificate, a statement prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below (required by Condition C27): -

- *Ulmus parvifolia* (200l)
- *Cupaniopsis anacardioides* (100l)
- *Phoenix dactylifera* (75l)
- *Magnolia x soulangiana* (100l)
- *Lagerstroemia indica* (100l) (as amended by Condition AA1(6) of this consent)

The report must detail the condition and health of the nominated trees upon completion of the works and shall certify that the trees have not been significantly damaged during the works on the site and shall confirm that the trees have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent).

BASIX Completion Certificate

G6. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

Landscaping

G7. The landscaping shown in the approved landscape plans listed in Condition A1 of this consent, as modified by Conditions AA1 and C27 of this consent, must be completed in full prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

G8. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Compliance with Certain conditions

- G9. Prior to the issue of any Occupation Certificate, conditions C2, C6 and C4 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

I. On-Going / Operational Conditions

No Additional Structures of any Roof Terrace

- I1. Approval is not granted for any permanent structures, in the nature of pergolas, shade sail structures and the like, to be erected on or affixed to any part of any roof terrace.

(Reason: To clarify the terms of consent and to minimise visual clutter)

Ongoing use of the Studio

- I2. No approval has been given for the use of the studio as tourist or visitor accommodation as defined by North Sydney Local Environmental Plan 2013.

(Reason: To maintain residential amenity and to ensure compliance with statutory requirements).

Single Occupancy

- I3. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

Maintenance of Approved Landscaping

- I4. The owner of the property is to maintain the landscaping approved by this consent generally in accordance with the approved landscape plans listed in Condition A1 of this consent, as modified by Condition C27 of this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non flowering, native for exotic, deciduous for non deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)